

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Robert Lee Lane, Jr.,)	
)	
Plaintiff,)	Civil Action No. 5:15-cv-04445-JMC
)	
v.)	
)	ORDER
John Rubio; Charles Broxton; and)	
Dennis Smalls, in their individual)	
and official capacities,)	
)	
Defendants.)	
)	

Plaintiff, formerly an inmate with the South Carolina Department of Corrections (“SCDC”), filed this action and has proceeded pro se. On March 10, 2017, the court denied Defendants’ Motion for Summary Judgment in all respects except to the extent Defendants sought dismissal of claims against them in their official capacities. (ECF No. 64.) In this regard, the court now considers whether to appoint Plaintiff counsel.

Pursuant to 28 U.S.C. § 1915(e)(1), “the court may request an attorney to represent any person unable to afford counsel.” *Id.* However, “there is no absolute right to appointment of counsel [absent]...‘exceptional circumstances.’” *Hall v. Holsmith*, 340 F. App’x 944, 946 (4th Cir. 2009) (quoting *Miller v. Simmons*, 814 F.2d 962, 966 (4th Cir. 1987)); *Whisenant v. Yuam*, 739 F.2d 160, 163 (1984), *abrogated on other grounds by Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296 (1989) (“The power to appoint is a discretionary one, but it is an abuse of discretion to decline to appoint counsel where the case of an indigent plaintiff presents exceptional circumstances.”). Exceptional circumstances exist where “it is apparent to the district court that a pro se litigant has a colorable claim but lacks the capacity to present it.” *Id.* at 163.

At this stage of the instant action, it has become clear that Plaintiff has a potentially meritorious claim which he is ill-equipped to litigate in a trial setting. Attorney Joseph Daniel Dickey, Jr. (“Attorney Dickey”) of Dickey Law Group in Columbia, South Carolina is appointed as *pro bono* counsel to assist Plaintiff in this case and to represent him at trial. Attorney Dickey is ordered to contact his client, as soon as possible, and the Clerk shall enter a scheduling order to serve the purposes of mediation and the trial of this case.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

March 16, 2017
Columbia, South Carolina